
MEETING MINUTES
WATER POLLUTION CONTROL ADVISORY COUNCIL
Friday, February 21, 2014
10:00 AM – 1:00 PM
Metcalf Building
1520 E. Sixth Ave, Helena, MT 59620

PRESENT

Council Members Present:

Mack Cole (by phone)

Barbara Hall (by phone)

Mitchell Leu (by phone)

Stevie Neuman (by phone)

Earl Salley

Karen Bucklin Sanchez

Trevor Selch

Dude Tyler (by phone)

Michael Wendland (by phone)

Council Members Absent:

Keith Smith

Kathleen Williams

Montana Department of Environmental Quality Staff Members:

Barbara Kingery

Bonnie Lovelace

Sarah Norman

Amy Steinmetz

Eric Urban

CALL TO ORDER

Chairperson Trevor Selch called the meeting to order at 10:03 a.m.

APPROVAL OF AGENDA

Mr. Mack Cole moved to approve the agenda as written; Chairperson Selch seconded the motion. There was no opposition; the motion carried.

APPROVAL OF MINUTES

Mr. Michael Wendland moved to approve the December 17, 2013 meeting minutes as written; Mr. Cole seconded the motion. There was no opposition; the motion carried.

ACTION ITEMS

Election of 2014 Chairperson –

Mr. Earl Salley nominated Chairperson Selch to continue serving as the Water Pollution Control Advisory Council (WPCAC) chairperson for the 2014 calendar year. There were no other nominations. Mr. Cole moved to close nominations and reelect Chairperson Selch; Mr. Wendland seconded the motion. All voted in favor of the re-election of Chairperson Selch.

Discussion ensued over nominating a vice chairperson. Mr. Salley nominated Mr. Dude Tyler, and Chairperson Selch seconded the nomination. Mr. Tyler, who served as WPCAC's 2013 vice chairperson, was re-elected to fill the position for 2014.

Proposed Changes to Public Water, Subdivision, and Septic Rules –

Ms. Barbara Kingery, with the Subdivision Section of the Department of Environmental Quality (DEQ), began her discussion of proposed changes by giving a history of the rules. In the 2009 and 2011 legislative sessions, laws were passed that directly affected subdivision review. Mr. Steve Kilbreath and Mr. Jim Madden began working on cleaning up these rules. With their help, the Subdivision Section has come up with a rule package to implement the statutory changes and also lessen the regulatory burden in some areas. The package puts established DEQ policy into rule and provides consistency between DEQ programs and currently adopted DEQ circulars.

Ms. Kingery described the regulatory authority accompanying the rules. The subdivision rules, Administrative Rules of Montana (ARM) 17.26.101 through 17.36.805, are DEQ rules that the Department is responsible for adopting. The 17.36.900 series rules pertain to the onsite minimum standards for subsurface wastewater treatment systems and are the responsibility of the Board of Environmental Review (BER).

The public water rules are not recorded on the draft that was handed out at the meeting, though, according to Ms. Kingery, they should probably be included in the list. Ms. Kingery emphasized that the rules presented are still a draft version. She said that the public water rules 17.38.101(4)(d) and 17.38.101(4)(e) adopt by reference 17.36.319 through 17.26.325 and also 17.36.327. There will not be an amendment to this rule, but since it adopts by reference additional rules that are changing, the Department thought that the rule also needed to go before BER. In response to a question by Ms. Karen Bucklin Sanchez, Ms. Kingery clarified that the public water rules only pertain to public water supply systems and public wastewater systems. Not all subdivisions have this public water component, but some do.

Mr. Cole asked whether these changes would affect small towns in Montana as well. Ms. Kingery responded in the affirmative, explaining that subdivision covers all land across the state. Mr. Wendland asked whether this includes county-wide planning. Ms. Kingery answered that the planning portion is under a different statute. There are two subdivision statutes. One is the Montana Subdivision and Platting Act (MSPA), under which zoning and codes come into play. The other is the Sanitation in Subdivisions Act, which is the statute that these rules directly relate to. The MSPA is locally implemented and enforced, while the Sanitation in Subdivisions Act covers the entire state.

This draft of the proposed changes has been sent out to a wide range of entities, and a number of meetings have also been set up around the state to solicit feedback on the rules. Public meetings have been held in Helena and Billings, and a final meeting will be held in Kalispell on Monday, February 24. Ms. Kingery has also discussed the rules with people who have been unable to attend the public meetings. She said that some of the rules have received many comments, while others have not. Ms. Kingery said that she would present to WPCAC the rules that have been the primary topics of discussion.

Ms. Kingery talked about the definitions shown on the first five pages of the notice. These definitions were taken from the public water supply rules, statute, Circular DEQ 4, Circular DEQ 1, and Circular DEQ 3. They have tried to make all of the definitions consistent across DEQ.

To help people understand the rationale behind the changes, Ms. Kingery noted that they have included a statement of reason for all of the proposed amendments. The discussion turned to 17.36.103, which lists what is required of an application. If there is a subdivision with over 5,000 gallons per day in its wastewater treatment system, or something that requires a groundwater discharge permit, it has been DEQ policy that a permit is required to be in place prior to issuance of final subdivision approval. ARM 17.36.103(k) puts this policy into rule. The reasoning behind this change is that some people have received subdivision approval and then come back for the discharge permit without being able to develop as anticipated.

Ms. Kingery then directed attention to 17.36.103(s). It requires a letter of determination addressing the proposal from Department of Natural Resources and Conservation (DNRC) before DEQ gives final approval to a subdivision. DNRC will examine the proposal and then issue a letter determining that there are either exempt wells on the property or that a water right is needed. Ms. Kingery said that DEQ cares about whether a subdivision goes out the door without a water right, and this is an issue around the state. DEQ is responsible for making sure that subdivision water is safe in quantity, quality, and dependability. Ms. Kingery said that she takes the term dependability to mean legally dependable. One of the comments frequently received on this rule is that requiring a water right will greatly lengthen the approval process because the water right process takes so long. While this is true, Ms. Kingery says that it is needed. Once a Certificate of Subdivision Approval (COSA) goes out from DEQ, it can be taken to the county clerk for filing and lots can then be sold. This change has been discussed with Ms. Tracy Stone-Manning, Director of DEQ, and she is on board with it. This will also need to be run past the Governor's Office, but Ms. Kingery said that she wanted to run it by WPCAC first. DEQ and DNRC have drafted a Memorandum of Understanding (MOU) between the two agencies to discuss this process. The MOU, which has not yet been signed by Ms. Stone-Manning or DNRC's Director, John Tubbs, says that DNRC will provide this letter of determination within 20 days of receipt of the plans. The letters will simply say that either the applicant is okay to go forward, or that they will need to get a water right before proceeding. Currently, there is no fee associated with this. Depending on what happens with the definition of an exempt well, rules may need to be passed that will set a fee for this part of the process.

Moving onto 17.36.110, Ms. Kingery said that applications for a COSA rewrite sometimes come to DEQ. The purpose of these rewrites is to change the use or boundaries, or to add wells. The New Rule 1, located on page 62 of the notice, discusses the implementation of an approval for previously approved COSAs. As a DEQ policy, only facilities that will be affected by the rewrite will be reviewed. For example, if someone were previously approved for one well in one drain field on a lot and now they want to add a second well, DEQ would not review the drain field a second time if it did not affect the rewrite. They would only review the part of the facility that is going to be changed. The rationale behind this is that if it was approved once, it should already be in compliance with the rules. Ms. Kingery said that this proposed change has been receiving a lot of positive comments.

When very minor changes to subdivision approval occur, counties that are contracted with DEQ have used a modified as-built. This is a change in the lot layout that has no review associated with it. The Department does not have this ability; only the contracted counties have this ability. Another aspect of New Rule 1 is that DEQ will be allowed to these as-builts for non-contracted counties. The Department will charge a set \$100 fee for these modified as-builts. Typically about 50 of these requests come to DEQ each year. It will be cheaper and simpler than the COSA process. Feedback about this has been very positive, according to Ms. Kingery.

Turning to 17.36.310, Ms. Kingery discussed the stormwater rule. She said that while the rule is poorly written, it is not being fixed yet. It discusses the stormwater review procedure under Circular DEQ 8. DEQ 8 addresses needs for stormwater plans in subdivisions. According to Ms. Kingery, it is cumbersome and complicated, making it next on the list for revision after the public water, subdivision, and septic rules are complete. ARM 17.36.310 explains the review under Circular DEQ 8. Rule 17.36.310(3) is set up as an exemption from Circular DEQ 8 reviews. This is intended for simple lots that do not need to go through a complicated DEQ 8 review. If a lot meets the requirements of 17.36.310(3), then it meets the most stringent requirements of DEQ 8, which simplifies the process. Ms. Kingery said that there have been many positive comments on this proposed change.

In some complicated cases, a professional engineer is required to submit the plans. These include situations where there are high areas of impervious surfaces, steep slopes, or commercial development. A professional engineer is required when dealing with wastewater systems of over 2,500 gallons per day or water systems that have six connections or more in a multiple user system. Previously, there was no follow up on these designs, so New Rule 2 was created to deal with all systems that need to be designed by a professional engineer. There have been no increases or decreases in the regulations that are currently in place. New Rule 2 serves as a mechanism requiring that professional engineer designs must also include as-builts that show that the construction occurred per the design. Currently, this is not required. Also, there will be a requisite that facilities are to be constructed within three years of the design submittal. Ms. Kingery said that this echoes the public water requirements for professional engineer submitted designs. The reason for the three year limit is because, in theory, DEQ program regulations should be looked at every three years as new regulations could be in place by then. Anything that is critical enough to need a professional engineer should also be required to meet current standards. Ms. Amy Steinmetz asked whether this section was intended to include A through H, as it currently only lists A through G. Ms. Kingery confirmed that this is the intention.

Ms. Kingery then moved to 17.36.340, which addresses lot sizes. This rule has been in place since the early 1970s. It sets minimum standards for the size of a lot depending upon development. This served as a way to address nondegradation and nutrient standards prior to DEQ having a nondegradation policy. DEQ now has developed nondegradation limits for nitrogen and phosphorus for both groundwater and surface water. The 2009 legislature made some statutory changes requiring that all mixing zones and well isolation zones stay within the property boundaries of the subdivision. With all of the other regulations now in place, 17.36.340 says that if you meet the statutory requirements, DEQ is not going to care what size lot you have. There have been a variety of comments on this proposed alteration. Developers approve of the change, and sanitarians are saying that this simplifies the process and makes the requirements easier to understand. Planners, conversely, have been uncertain whether they like the proposed change because they have historically used the rule as a tool for zoning. Ms. Kingery said that she has responded to the planners by explaining that planning should be handled at the county level. If it is not related to nutrients or health and public safety, it is probably not DEQ's role.

Turning to the 17.36.900 series rules, Ms. Kingery explained that these are the state minimum standards for onsite septic systems. The definitions here are intended to closely match the subdivision and Circular DEQ 4 definitions. A change has also been made to 17.36.918. This change was made to mimic the onsite components and systems that are in the current subdivision rules.

One of the additions was that slope requirements are changing to 35%. Currently in the 17.36.900 series rules, slopes on septic systems up to 25% are allowed, but the subdivision rules will allow them up to 35%. One question that has come up is whether local counties with regulations of 25% slope have to go

through the stringency process. DEQ advises the counties to speak with their county attorneys. This topic is bringing up a lot of discussion among county attorneys. Ms. Bucklin Sanchez asked for clarification that if the county wants to be more stringent than the state standards, they can be. Ms. Kingery confirmed that is correct. She explained that, typically, anytime a county is more stringent than the state standards they need to go through a formal stringency process where the regulations are put out for public comment. DEQ has not had to do this when the federal standards have become looser than DEQ standards though. Essentially, these standards are becoming looser than the current standards. DEQ's legal staff does not believe that the counties need to go through a formal stringency process, but they are having each county determine that separately.

ARM 17.36.922 provides a procedure to reference for local variances. The language in this rule was very old and did not match the variance language of the subdivision section or that of DEQ 8. The content is exactly the same, but the wording has been changed to match with Circular DEQ 4 and the subdivision variance criteria.

Ms. Kingery then asked whether WPCAC members had other proposed changes that they felt were important to discuss. There were none. Ms. Kingery said that these proposed changes are a draft version that has been, and is being, changed in response to comments. There will be a final public meeting held in Kalispell on Monday, February 24, 2014. She said that this is the time to make changes, before going to BER and that is why she is now coming to WPCAC for input.

Mr. Cole asked whether there would be any other public meetings in addition to the one in Kalispell. Ms. Kingery said that the Kalispell meeting is the last one scheduled. Others have been held in Helena and Billings.

Ms. Bucklin Sanchez said that she has been receiving Ms. Kingery's emails, and that she has done a wonderful job of outreach across the state.

Ms. Barbara Hall commended Ms. Kingery for incorporating the rule requiring a letter from DNRC regarding water rights and as well as the requirement that a discharge permit be received. Ms. Kingery said that, because lots can be sold after DEQ approval goes out, it seems to make sense that DEQ should be the gatekeeper. She added that realtors understand this too, as they do not want to have to deal with disclosure issues.

Mr. Cole asked whether developers could proceed after DEQ approval. Ms. Kingery answered that as soon as DEQ issues a COSA, developers can go file it with the clerk that same day. Immediately after filing the COSA, lots may be sold.

Chairperson Selch asked if Ms. Kingery would be looking for approval for the proposed rule changes "as-is" if there were other modifications. He asked if WPCAC members would be notified of other changes. Ms. Kingery responded that she is setting up the meetings to get opinions. What was presented to WPCAC at this meeting represents where they are presently. There will be additional changes made after the meeting is held in Kalispell. Ms. Steinmetz mentioned that if there are substantive alterations to the proposed changes then, prior to going to BER, WPCAC will need to be notified. Ms. Kingery said that she understood.

Chairperson Selch asked if there were other questions. There were none. Chairperson Selch then made a motion to accept the proposed changes to the public water, subdivision, and septic rules. Mr. Cole and

Mr. Mitchell Leu seconded the motion. There were no public comments. All were in favor of the motion; the motion carried.

BRIEFING ITEMS

E-plan – Delivering Vital Hazmat Information to First Responders –

Ms. Bonnie Lovelace described the E-plan database system, which was built by the Environmental Protection Agency (EPA) and Homeland Security. This system was set up as part of a federal requirement under the Emergency Planning and Community Right to Know Act. A portion of this statute requires reporting from facilities that have large amounts of on-site chemicals. In Montana, we historically did a very poor job of managing this information.

For Montana's 2013 annual reporting, the E-Plan system is being used. The state of Montana has paid to be a part of this, and has covered the cost for all of Montana's facilities to enter their reports into the database. Access to the database has also been given to first responders. The number of individuals with access to the database has been growing in number since the launch of the system. According to Ms. Lovelace, the database has potential to help people, particularly emergency responders, by giving them access to additional information about facilities throughout the state.

As of February 21, there are 1,056 facilities in Montana that have loaded their 2013 reports into the database prior to the March 1, 2014, deadline. There are approximately 1,500 reports from 2012 loaded in E-Plan, which gives an idea of how many there will be this year.

The reports in the database consist of details such as facility name, latitude and longitude, address, contact information, industrial codes, facility contacts, and chemical information. The chemical information contains a detailed profile including items such as chemical quantities, MSDS information, and water pollution and health data.

Ms. Bucklin Sanchez asked whether public facilities, as well as private facilities, are required to report. Ms. Lovelace answered in the affirmative. Anyone with chemicals exceeding certain amounts is required to report, and this includes federal facilities. Initially, according to statute, federal facilities did not need to be included, but by executive order they were required to begin reporting.

Ms. Lovelace said that this is a great resource for researching. It is possible to do a simple search and receive lots of detailed information about chemicals located around the state. Additionally, it is possible to map facilities with chemicals. This system is not available to the public. It is just for first responders to see, and it also allows facilities to make their required reports available for viewing. According to Ms. Lovelace, there is a separate requirement in the Air Quality Law for a Risk Management Plan (RMP). Facilities with RMPs have that information available on the database.

Mr. Leu asked whether the mapping comes from the RMP or another source. Ms. Lovelace said that the RMPs are filed at EPA, and then EPA gives them to the E-Plan folks to load into the database. The new data is loaded annually.

Mr. Salley asked whether volunteer fire departments have access to the system. Ms. Lovelace replied that they can be given access. Mr. Salley then asked whether it is required for first responders to use the system. Ms. Lovelace responded that it is not required that they have it. There is already a federal requirement that these kinds of reports have to go to the fire departments and the local emergency planning committees (LEPC). Ms. Lovelace said that she is in the process of trying to educate all of the

LEPCs to see if they will accept the database. Authorizing authorities can authorize their staff and others within their county. In May, Ms. Lovelace will be meeting with the fire chiefs of Montana to present the database. She hopes that they will accept it, and then they can decide among their crew members who should have access. Ms. Lovelace said that spreading the word about the database is key to getting first responders to use the program as well as getting facilities to report on the system. Two incentives for facilities to use the system are that the fee for system use is already paid and reports from last year can be moved to the new reporting year to save the need to reenter all information.

Ms. Bucklin Sanchez asked about the accuracy of the information entered in the system by facilities. She asked if, for example, there were any penalties for not reporting by the March 1, 2014, deadline. Ms. Lovelace responded that there is no formal enforcement for compliance. There could be facilities within the state that are not filing as required. She added that local fire departments could be an asset in this respect because they may be persuasive in ensuring that facilities report as required. She also noted that the reporting is required by federal law, not state law, so federal entities could be instrumental in maintaining compliance.

Mr. Salley said that, as an old first responder, he believes this is a wonderful system. Ms. Lovelace responded that it is a great system for planning, and it is convenient for cross-county interaction.

Ms. Steinmetz asked how many states use the system. Ms. Lovelace said that the database contains information from 37 states. Use of the database is not required by many of those states. Some of them use a state database of a different kind, but their information is then passed along for entry into this system so that EPA and Homeland Security have access to the data for first response purposes. Ms. Lovelace added that she has also given access to the database to Montana law enforcement personnel.

DEQ Water Quality Standards Section –

Mr. Eric Urban, supervisor of DEQ's Water Quality Standards Section, opened his presentation with a brief overview of the history of water quality regulation. Federal requirements have existed for a long time. In 1948, the Pollution Control Act was initiated, though it did not work out quite as planned. In 1972, the federal government passed the Clean Water Act (CWA). Prior to this, Montana passed its own Water Quality Act (WQA). In 1967, the state adopted a WQA that is similar in some respects to what we use today. In 1972, the federal CWA brought on the permitting system. The permitting system contains two main components: technology based effluent limits (TBEL) and water quality based effluent limits (WQBEL).

The water quality standards apply to everyone, though they are often thought of as unequal because permits are required for discharge of point source pollution, while there is no permit required for nonpoint pollution. In the CWA there are exemptions for nonpoint sources, but this does not mean that they should not adhere to the water quality standards. DEQ, and the state, have multiple programs that are consistently working with nonpoint source to improve water quality. These may not get as much attention as permitted facilities simply because of the regulatory requirements of the dischargers.

Mr. Urban explained in further detail the two sets of effluent limits in permits: TBEL and WQBEL. TBEL are limits that are based on the technology available. According to Mr. Urban, these limits are often nationally set and can be viewed as the minimum requirements for an industry or category of discharger. He gave the example that, in Montana, public wastewater facilities often see a TSS limit for effluent. This is a TBEL, which sets the minimum requirement for treatment. It is based on treatment available, rather than receiving water quality. These standards are updated nationally as technology

changes. WQBEL are implemented if TBEL are not protecting the receiving water quality. This is where water quality standards tie in, as WQBEL are based on receiving water quality.

Water quality standards are made up of three primary components: beneficial uses, criteria to protect uses, and the state or federal antidegradation policy. Policy is the fourth concept of implementing standards, which Mr. Urban said he should mention but he would not discuss during his presentation unless requested by WPCAC members. Mr. Urban then discussed each of the three components of water quality standards.

Mr. Urban said that the CWA, at the federal level, is concerned with mainly two uses: fishable and swimmable waters. In addition to that, states have the option of adding other uses, or subcategories of those uses. In Montana, in addition to fishable and swimmable uses, drinking water, agriculture, wildlife, and industrial water supply have been added as uses that were deemed important to protect. Uses are designated either because they exist or are anticipated to exist. Mr. Urban then showed a map of Montana that included major waterbodies within the state. The map, dated October 5, 1967, is the core of Montana's use classification system. There are a lot of similarities to this map that exist today based on use designations. Mr. Urban said that, in 1967, Montanans felt that it was important for certain headwater streams to be protected for a public drinking water supply. Those waterbodies often still remain designated for the protection of the drinking water supply. He noted, however, that the state's beneficial uses have evolved in some respects as well. For example, entire watersheds have been added, rather than single streams, for wider protection of areas. Mr. Urban then discussed the topic of Use Attainability Analysis (UAA). He described UAAs as situations when the Department looks at existing and anticipated uses within a water and asks the people of Montana what uses presently exist and what they would like to use the water for in the future. According to Mr. Urban, this sets the stage for what criteria should be applied.

Transitioning from the topic of beneficial uses to criteria, Mr. Urban emphasized that criteria are not based on an ideal or what is technologically achievable, but rather on what protects the use. He mentioned the Numeric Nutrient Criteria package as an example. Criteria can take on two different forms of equal value. One of these forms is narrative, and the other is numeric. Narrative criteria are challenging to implement. The concept behind them is that you cannot put anything into the water that causes harm. According to Mr. Urban, in the view of some folks, narrative criteria are not as valuable as numeric criteria because of the difficulty of implementation. Numeric criteria, however, have lots of detail and a solid scientific basis. Mr. Urban gave an example of numeric criteria. He said that for drinking water use, the numeric criterion is set at 10 micrograms of arsenic per liter. For aquatic life, this criterion is set at 150 micrograms per liter. Mr. Urban also mentioned that Ms. Steinmetz calculated that DEQ has 293 numeric criteria, most of which are human health criteria.

Mr. Urban then discussed the third component of water quality standards: antidegradation. In Montana, the state's antidegradation policy is referred to as nondegradation. Nondegradation is based on the idea of protecting water quality simply for water quality's sake. Mr. Urban mentioned that one analogy he likes to use for nondegradation is that we are protecting the water just for water's sake so that the downstream neighbor, possibly a municipality, can still use a mixing zone to meet their effluent requirements. Without the nondegradation policy, there could be a change in water quality above the downstream neighbor that would affect them without them even seeing it coming. According to Mr. Urban, antidegradation is an important piece nationally, but it is an element that is very challenging to implement and faces frequent judicial pressure.

There are three tiers to both the national and Montana antidegradation policies. Mr. Urban described the first tier as applying to all waterbodies within the state. Its focus is on maintaining current uses and water quality. Mr. Urban gave an example of this as being when a new discharger comes in and the waterbody is impaired for a certain parameter, the goal is to not let the water quality become any more impaired.

The second tier applies to high quality waters. Mr. Urban gave an example situation of this as occurring when a new discharger shows up and asks to discharge something that does not already exist in the waters. In this case, the discharger may be granted only a small portion of the standard for aquatic life in order to protect the water quality, which will help protect downstream neighbors.

Mr. Urban noted that there are some provisions within the nondegradation policy that allow discharger to provide a demonstration, called an authorization to degrade, that says that their project is socially and economically important enough to the state of Montana to warrant adding additional pollutions to a waterbody although it will affect downstream neighbors. Very few of those have been granted in the state, but Mr. Urban says that there may be more in the future dependent upon economic growth. Ms. Bucklin Sanchez asked whether there is some sort of bonding to recoup damages if the authorization to degrade does not show the benefit to the state that it was based upon. Mr. Urban answered that typically surety bonds are used as insurance to recoup damages. In this scenario, however, even with the authorization to degrade, there would not be damage because we would not allow a permit to be written that would cause environmental damage. Instead you would just see a lack of benefit. According to Mr. Urban, authorizations to degrade are under the purview of our tri-annual review processes. If there is a company that comes in to Montana and is granted an authorization to degrade, but they do not demonstrate the benefits that they had claimed would result from this authorization, this should fall under the review process.

The third tier applies to designated outstanding resource waters where no degradation to water quality is allowed. In Montana, national parks and designated wilderness areas fall into this category.

Mr. Urban wrapped up his presentation by addressing the topic of the major customers of water quality standards. Ultimately, it comes down to Montana citizens and stakeholders. Mr. Urban explained that there are several DEQ and county-level programs designed to support the citizens and stakeholders. Within DEQ the primary users include the discharge program, as they write permits based on water quality standards (with the exception of TBELs); the monitoring and assessment program that maintains the 305b and 303d impaired waters integrated reports; the TMDL (Total Maximum Daily Load) program that examines what it will take for watersheds to meet the standards; and remediation that uses the benchmarks and goals. Standards is the core of water quality for the state, according to Mr. Urban. He said that the Standards Section is readily available to address local-level questions and concerns.

Ms. Bucklin Sanchez said that the presentation was a great overview, and she recommended presenting it to other groups. Mr. Urban said he feels strongly that the program needs to do a better job of selling the water quality standards statewide, and of establishing a positive public presence. He added that sometimes it is difficult for effluent limits to make it to a common sense level. Finding a balance between making these limits implementable in a common sense fashion, while also protecting and sustaining the environment is the goal of the program. Ms. Bucklin Sanchez said that she feels that this presentation is a good start on that track because of its discussion of uses. Mr. Urban said that this gets tricky because water quality standards and criteria rarely go up. The trend toward increasingly stricter requirements creates meets some disagreement over whether this is a good thing. Mr. Salley asked for

clarification that numbers tend to go down. Mr. Urban replied that this is the general trend as it is rare to find numbers that were too conservative when the standards were originally set. He noted that if criteria keep going down, while technology stays the same, problems will arise within the next 20 or 30 years. He said that Ms. Bucklin Sanchez probably sees a lot of that with grant requests for facility upgrades for facilities that are trying to meet these new and more challenging requirements. He added the future will be challenging for everyone involved to find a way forward and prioritize efforts.

Public Comment –

There were no public comments.

Agenda Items for Next Meeting –

Ms. Steinmetz said that Mr. Tom Reid will present permit rules at the May 2, 2014, meeting. There will also likely be a presentation on UAAs for Muddy Creek and Prickly Pear, dependent upon BER's schedule.

Mr. Urban mentioned that the Nutrient Rule Package is out. There is a public hearing scheduled for March 24, 2014, at the Metcalf Building in Helena. It shares both rule packages: the proposed nutrient criteria package will be held in the morning (BER's rules) and the hearing for the variance package (Department's rules) will be held in the afternoon.

April 1, 2014, is the deadline for written comments for both packages. Comments have already started coming in, and Mr. Urban said that they expect to receive a substantial number of total comments. Ms. Steinmetz said that there will be an update of this during the next meeting, depending on what they know, prior to the packages going back to BER.

Ms. Steinmetz mentioned the Department section updates to be given at WPCAC meetings throughout the year. She suggested Mr. Dean Yashan presenting on TMDLs at the next WPCAC meeting. Mr. Urban added that 2014 is the deadline for DEQ's TMDL program to wrap up. There is a consent decree binding DEQ to have a large number of TMDLs written by 2014, which is when the decree wraps up. After this deadline, the Department will no longer be operating under the lawsuit, which will change program operations a bit. Currently, plans for this adjustment are underway. The Statewide TMDL Advisory Group is meeting with DEQ to prioritize next steps following the lawsuit.

Ms. Steinmetz invited council members to share ideas of topics that they would like to see presented at WPCAC meetings. Mr. Cole said that he would like to hear about energy development. Mr. Urban responded that DEQ has a staff member who specializes in oil and gas development. He also added that DEQ's water quality monitoring program has a few projects going, one of which is an oil and gas baseline monitoring program in eastern Montana. Mr. Urban said that it might be possible to bring these folks to present on this topic.

Mr. Salley mentioned the Tintina mine in the White Sulfur area. He said that there is currently a lot of interest in this topic, and he asked if it would be possible to have a presentation on this to educate WPCAC members. Mr. Urban said that Mr. Herb Rolfes is the program manager of DEQ's Hard Rock Program. They have taken some proactive steps, and while they do not anticipate any water quality concerns, they are requiring the permittee to have onsite wastewater treatment capabilities. Mr. Urban stated that, as far as he knows, they are approved to go forward with the project as soon as they post a bond. Mr. Urban believes it would be possible to have Mr. Rolfes give a presentation on this subject.

ADJOURN

Chairperson Selch moved to adjourn the meeting and Mr. Salley seconded the motion. All were in favor; the meeting adjourned at 12:07 p.m.

REFERENCED LINKS FOR MEETING MATERIALS

(Sites last updated 2/24/2014)

February 21, 2014 Agenda -

http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2014/February21/AGENDA_2-21-14.pdf

Agenda Links:

Approved Minutes from December 17, 2013 -

<http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2014/February21/12-17-13ApprovedMinutes.pdf>

Proposed Changes to Public Water, Subdivision, and Septic Rules -

<http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2014/February21/MemoPubWtr-SubdivSepticRules.pdf>

Administrative Register Notice -

<http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2014/February21/AdmRegNotice.pdf>

E-Plan – Delivering Vital Hazmat Information to First Responders -

<http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2014/February21/MemoHazmatPresentation.pdf>

DEQ Water Quality Standards Section -

<http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2014/February21/WaterQualityStandardsOverview.pdf>

Submitted by,

Sarah Norman 3/11/2014